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Property Insurance Rate-Making

Key question: Is the system (which is now utilized) for setting rates for property insurance in North Carolina the best system for the insurance companies (as insurers) and for all the citizens of the state?

1. The feasibility and advisability of replacing the NCRB with a market based rate-setting system or with a regulatory commission similar to the NC Utilities Commission.

- **Florida (FL)** allows insurers to file directly (can file on-line) with the Florida Office of Insurance Regulation (Commissioner of Insurance) to sell insurance in the state and (after rigorous review) is usually approved within 90 days. All insurance companies have to be a member of the [FL Hurricane Catastrophe Fund](#) (a tax exempt trust fund). FL also has an office of the Insurance Consumer Advocate (ICA) that promotes a viable insurance market responsive to needs of the consumer and assures rates are fair and justified. See # 4 for more details.
- **Texas (TX)** implements a system of file and use for insurers wanting to sell insurance in TX. They also have a Public Insurance Council which is an independent office that represents the interests of insurance consumers in TX. See #4 for more details.
- **Virginia (VA)** also implements a file and use system whereby each individual insurer sets its own rates and insurers can file on-line or via postal service and can start selling insurance with little to no waiting period. They license, regulate, investigate and examine insurance companies, agencies and agents and are self-supported thru insurance co. assessments. VA uses the “free market” as its own regulator.

2. The adequacy under current law of legislative oversight of the Rate Bureau, The NCJUA and the NCIUA (a.k.a Beach Plan).

- **Would NC be better off without a Rate Bureau** and thereby eliminating the need for legislative oversight? The NCRB was created by statute in 1977 and the insurance industry has changed and evolved in the last 35 years with most states now using direct file or file and use. Does keeping the NCRB benefit both insurers and property owners across the state? See [NCRB outline](#) for some basic facts.

- **The Beach Plan has a Board of Directors (Board)** who adopts the [Plan of Operation](#) and submits to the Commissioner of Insurance (Commissioner) for approval. The Board consists of 7 insurance industry members (elected annually by member companies), 4 agent members and 3 public members (**how many of the members are from the coast?**). There needs to be more input/oversight by the General Assembly and/or the Commissioner on which members serve on the Board as well as their Plan of Operation. Need more accountability and transparency with the Beach Plan.
- **VA and FL do NOT** have separate coastal wind pools (Associations) or an entity similar to the NCRB and therefore no legislative oversight is needed.
- **Texas has a Windstorm Insurance Association ([TWIA](#)) that:**
 1. Is a quasi-governmental entity with a Board of Directors nominated by insurance companies, insurance agents as well as consumer advocates. After nomination, the names have to be approved by the Commissioner of Insurance.
 2. Promotes consumer confidence in the Department of Insurance.
 3. Requires the disclosure of certain information by a presiding officer in a dispute between TWIA and a policyholder.
 4. Allows the commissioner of insurance to assign a new presiding officer in certain situations.
 5. Creates new standards of conduct for TWIA Board of Director (“Board”) members and employees.
 6. Requires TWIA to file annual financial statements with TDI and the **State Auditor’s office**.
 7. Requires TWIA to post on its website the salaries and any related compensation of individuals or entities paid more than \$100,000 in a calendar year.
 8. States that the commissioner shall appoint a panel of experts to advise TWIA concerning the extent to which a loss to insurable property was incurred as a result of wind, waves, tidal surges, or rising waters not caused by waves or surges.
 9. States that the panel shall consist of a number of experts to be decided by the commissioner with the commissioner appointing one member of the panel to serve as the presiding officer of the panel.
 10. Members of the panel must have professional expertise in, and be knowledgeable concerning, the geography and meteorology of the Texas seacoast territory, as well as the **scientific basis** for determining the extent to which damage to property is caused by wind, waves, tidal surges, or rising waters not caused by waves or surges.

11. The panel meets at the request of the commissioner or the call of the presiding officer of the panel. The cost and expense incurred by the panel associated with the work of the panel under this section is paid or reimbursed by TWIA.
12. At the request of the commissioner, the panel recommends to the commissioner **methods OR models** for determining the extent to which a loss to insurable property may be or was incurred as a result of wind, waves, tidal surges, or rising waters. After consideration of the recommendations made by the panel, the commissioner publishes guidelines that TWIA will use to settle claims.

3. The adequacy under current law of the Commissioner of Insurance duties pertaining to protection of policyholders and the public against the adverse effects of excessive, inadequate or unfairly discriminatory rates.

- **FL Applies the [Florida Sunshine Law](#) to public hearings for rate increases over 15%. The law requires open government for all public records, hearing etc. and allows public hearings to be televised all around the state. Consumers can testify at public hearings involving rate increase over 15%. **NC needs a law similar to FL's law so consumers know what the Commissioner, the DOI, the NCRB and Beach Plan Board are doing.****
- **NC needs more transparency and accountability of HOW rates are approved.**
- **The use of modeling alone is not sufficient to determine rate increases/decreases across the state.**
 1. **FL has a [Commission on Hurricane Loss Projection Methodology](#) that uses modeling **in addition to** claims data and "sound scientific data."**
 - a. The models are subject to a "full review" and must be scientifically sound before they are accepted by the Department of Insurance.
 - b. The models are heavily vetted and are used in conjunction with other factors.
 2. TX also uses claims data and scientific analysis in addition to modeling as part of their rate making process.
- **The filing in 2008-[see charts](#). Was it fair or unfairly discriminatory? What data was used in addition to modeling?**
- **A statistical analysis needs to be done** evaluating the history of modeling and its **accurateness** in determining actual hurricanes and number of claims paid.
- **In the U.S. thirty-nine states appoint their Commissioner-only eleven elect.** Should the N.C. General Assembly or Governor appoint the Commissioner?

4. Whether the NC citizens and policyholders should be given a voice in rate appeals under G.S. 58-2-80 through the creation of a board or office independent of the Commissioner with standing to advocate on behalf of citizens and policyholders.

- **Under the North Carolina Utilities Commission** there is a [Public Staff](#) which represents the interests of the using and consuming public in matters pending before the Commission. The Public Staff is an independent agency which is not subject to the supervision, direction, or control of the Commission. The Executive Director of the Public Staff is appointed by the Governor, subject to confirmation by the General Assembly, by joint resolution, for a term of six years.
- **FL has an office of the Insurance Consumer Advocate that:**
 - a. Is a government entity funded by general revenues appropriated by the Legislature but has the ability (by statute) to set own budget. It is a separate budgetary entity.
 - b. The Advocate (head of office) is appointed by the Chief Financial Officer of the FL Department of Financial Services (an elected position).
 - c. Works directly with the Department of Insurance and is part of the FL [Commission on Hurricane Loss Projection Methodology](#).
 - d. Promotes a viable insurance market responsive to needs of the consumer **and** assures rates are fair and justified for **all** Floridians.
 - e. Examines rate and form filings to assure rate changes are justified and fairly apportioned and that policies clearly and accurately reflect coverage provided.
 - f. Represents Consumers in Rate and Form Filings and consumer interests in regulatory proceedings regarding all insurance activities conducted under jurisdiction of the Department of Financial Services and the Office of Insurance Regulation.
 - g. **Has authority to testify at the rate hearings on behalf of consumers.**
 - h. Has the ability to petition the Insurance Commissioner to investigate insurance matters related to market conduct.
- **TX Has an [Office of Public Insurance Council](#) which:**
 - a. Is an independent governmental agency (established by statute) that represents the interests of insurance consumers in TX (employs approx. 10 people).
 - b. Is run like a business in that it has to be cost effective (by statute).
 - c. Is funded by assessments on personal lines insurance policies which go directly into the general fund.
 - d. Works directly with the Department of Insurance and the Commissioner.
 - e. Has a statute (subchapter D Sec. 501.153) that gives **the public council the authority to appear, intervene or initiate proceedings on behalf of consumers i.e. the public counsel “may appear or intervene, as a party or otherwise, as a matter or right before the commissioner or department on**

behalf of insurance consumers, as a class, in matters involving:... rates, rules, and forms affecting property and casualty insurance.

- f. Under Section 501.155 states the public counsel “may recommend legislation to the legislature that the public counsel determines would positively affect the interests of insurance consumers.”
- g. Under Section 501.156 states “the public counsel shall submit to the department for adoption a consumer bill of rights appropriate to each personal line of insurance regulated by the department to be distributed on issuance of a policy by an insurer to each policyholder under department rules.”
- h. Under Section 501.202 Assessment. States “to defray the costs of operating the office, the comptroller shall collect assessments under this subchapter annually in connection with the collection of other taxes imposed on the insurer.

5. The adequacy of the review process afforded by G.S. 58-36-1(2) to persons affected by a rate or loss made by the NCRB.

- NC has NO review process for consumers affected by rate changes.
- See Florida’s Insurance Consumer Advocate and Texas Office of Public Insurance Council.

6. Whether information provided to the public by the Commissioner and the NCRB is adequate to allow reasoned review by interested citizens of the assumptions, modeling and processes used in setting rates.

- *It is not. NC needs an entity that provides oversight, accountability and transparency in the rate-making process on behalf of the consumers.*
- *The process needs to be simplified and streamlined-NC needs a system that is cost effective and functional.*